

Serial No. 10/656,730

PATENT
Attorney Docket: P10524.00REMARKS

Independent claims 13 and 17 have been amended to clarify that the sintered composite structures of the present invention have theoretical densities of at least about 95%. Support for the amendment can be found, for example, on page 24, lines 23-26, wherein U.S. Patent No. 6,478,842 is incorporated by reference (see col. 1, ll. 45-47 of the '842 Patent), as well as Fig. 9, showing a very dense bulk material in the top of the figure.

In the Office Action mailed February 21, 2006, claims 17-22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weaver (USPN 6,641,776) in view of either Tomonto (USPN 6,264,687) or Schwartz et al (USPN 5,443,496). The Examiner asserts that Weaver describes the claimed method by reference to an embodiment disclosed in Patent No. 5,972,027 (see Weaver, col. 5, l. 57). The Examiner further asserts that each of Schwartz et al. and Tomonto teaches fabrication of a stent from individual segments which are then interconnected to form a unitary device.

Applicants respectfully traverse the rejection that Weaver, in light of either Tomonto or Schwartz et al., renders the claimed invention obvious. Weaver discloses preparation of radiopaque surgical implements using at least two inorganic ceramic or metallic materials, one of which is radiolucent and the other radiopaque. Although the Examiner recites the language in pending claim 1 as being disclosed in Weaver, Weaver does not disclose the claimed method, and the Examiner has not cited any passage in Weaver to support his assertion. Rather, the Examiner has relied upon Weaver's discussion of U.S. Patent No. 5,972,027 (the '027 Patent) apparently as the disclosure from which the obviousness rejection is based. However, the '027 Patent is unequivocally aimed at porous structures. See, e.g.,

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'027 Patent Title ("Porous Stent Drug Delivery System"); col. 1, ll. 66-67 "The present invention relates to a porous stent made from a powdered material such as a powdered metal or polymer"; col. 3, ll. 27-29 ("Alternatively, the pressure treatment step can be eliminated and the processing limited to a sintering in which the metal or polymer powder is heated in a die resulting in a low density, highly porous compound."). Weaver itself acknowledges that the structures formed in the '027 Patent are porous. See Weaver at col. 1, ll. 51-52 ("A porous stent formed by a powdered metal sintering process is disclosed in U.S. Pat. No. 5972027"); col. 5, ll. 56-58 ("Fig. 3 shows a porous drug delivery stent 30 of the type described in U.S. Pat. No. 5972027, made from sintered stainless steel powder.").

In contrast, the claims of the present invention, as amended, specifically refer to theoretical densities of at least about 95%. Tomonto and Schwartz et al. do not disclose or suggest the deficiencies of Weaver (or of the '027 Patent referenced in Weaver) wherein porous structures are specifically claimed and contemplated. As a result, the rejection of claims 17-22 under 35 U.S.C. §103(a) as being unpatentable over Weaver (USPN 6,641,776) in view of either Tomonto (USPN 6,264,687) or Schwartz et al (USPN 5,443,496) should be withdrawn and the claims be allowed to issue.

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If any further matters remain outstanding, the Examiner is encouraged to
contact the attorney of record at the telephone number listed below.

Respectfully submitted for,
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